

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN SENATE MAY 12, 2009

## SENATE BILL

**No. 813**

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### Introduced by Senator Kehoe

February 27, 2009

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An act to add Sections 50517.12, 50650.8, 50862.6, and 50896.4 to the Health and Safety Code, relating to community development.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 813, as amended, Kehoe. Community development: ~~grant and loan securitization~~ *deferred payment future value loan* programs.

Under existing law, there are programs providing assistance for, among other things, multifamily housing, emergency housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time home buyers administered by the Department of Housing and Community Development. The Joe Serna, Jr. Farmworker Housing Grant Program provides grants and loans for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing to address and remedy the impacts of displacement of farmworker families. The CalHome Program provides grants and loans to enable low- and very low income

households to become or remain homeowners. The Building Equity and Growth in Neighborhoods (BEGIN) Program is established to make grants and loans to be used for downpayment assistance to qualifying first-time home buyers of low- and moderate-incomes purchasing newly constructed homes in a BEGIN project. Existing federal law establishes the HOME Investment Partnership Act, which allocated funds to states and local governments to eligible states to, among other things, expand the supply of affordable housing. The department is the state agency responsible for the state's allocation of HOME funds.

This bill would make legislative findings and declarations relating to the securitization of second mortgage loans with funds made available by the department. The bill would authorize, for the purposes of each of the above programs, a grant or loan for an individual household to include a ~~future value grant repayment or loan, respectively, deferred payment future value loan~~ due on sale or transfer, or when the property ceases to be owner-occupied, as specified. The bill would require the department to implement ~~the special grant and loan securitization programs~~ *its provisions* through guidelines exempt from a specified provision of existing law. ~~The bill would authorize the department to make use of future value securitization for loans and grants. The bill would provide that the authority for the special grant and loan securitization programs expires on January 1, 2014.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many first-time homeowners have been challenged by a
- 4 combination of costs of land purchased before current market
- 5 conditions arose, low appraised values of proposed homes due to
- 6 foreclosures and related economic conditions, and the costs of
- 7 land, government fees, and construction.
- 8 (b) These potential homeowners are eligible for financial
- 9 assistance under the Joe Serna, Jr. Farmworker Housing Grant,
- 10 CalHome, Building Equity and Growth in Neighborhoods
- 11 (BEGIN), and HOME programs administered by the Department
- 12 of Housing and Community Development.

(c) As a result of current market conditions, financing to pay all costs often exceeds the depressed level of current home values. Therefore, neither adequate construction lending nor sufficient permanent financing can be obtained.

(d) Authorizing an alternative but financially sound means of securing second mortgage loans made with funds available through the Department of Housing and Community Development would provide housing for hard-working households and low- and moderate-income first-time home buyers, stimulate the construction labor and materials industry, and improve neighborhoods and areas with empty lots.

(e) An alternative unconventional means of securing loans by utilizing future increases in value when market conditions stabilize may be employed for up to four years in order to allow for orderly resumption and continuation of these first-time homeowner programs.

SEC. 2. Section 50517.12 is added to the Health and Safety Code, to read:

~~50517.12. (a) For purposes of this chapter, a grant for an individual household may include a future value grant repayment due on sale or transfer, except as provided herein, or when the~~

*50517.12. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009 may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the grant loan shall be payable only from the increase in the home value, calculated as the difference between the following:*

(1) The appraised value at the time that the ~~grant~~ *loan* made pursuant to this chapter is made to the buyer.

(2) The appraised value at the time repayment is due.

~~(b) Both~~ *All* of the following shall apply to the ~~amount of future value grant repayment~~ *deferred payment future value loan* specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the ~~grant~~ *Joe Serna, Jr. loan* is made to the buyer.

(2) The amount of each grant shall not exceed the difference between total development costs *the total development cost of the home* as approved by the department and the appraised value of the home at the time of the original sale.

(3) *If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.*

(4) *The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.*

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both ~~future grant repayment~~ *the deferred payment future value loan* authorized by this section and grants or loans otherwise authorized by this chapter. However, the latter grants or loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 3. Section 50650.8 is added to the Health and Safety Code, to read:

~~50650.8. (a) For purposes of this chapter, a loan for an individual household may include a future value payment loan due on sale or transfer, except as provided herein, or when the property~~

*50650.8. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009 may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's value, calculated as the difference between the following:*

(1) The appraised value at the time that the CalHome loan is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) Both of the following shall apply to the ~~amount of the future value payment loan~~ *deferred payment future value loan* specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the

1 financing on the property at the time the CalHome loan is made  
2 to the buyer.

3 (2) ~~The amount of each future value payment loan~~ shall not  
4 exceed the difference between the total development ~~costs~~ *cost of*  
5 *the home* as approved by the department and the appraised value  
6 of the home at the time of the original sale.

7 (3) *If the home buyer is credited with sweat equity towards the*  
8 *purchase price of the home, the amount of sweat equity shall not*  
9 *exceed 10 percent of the purchase price of the home.*

10 (4) *The interest rate on the loan shall be equal to the interest*  
11 *rate of the standard loan otherwise made pursuant to this chapter.*

12 (c) If necessary to achieve the housing cost payments required  
13 by this chapter in order for a household to qualify for a first  
14 mortgage, the department may approve the ~~future value payment~~  
15 *deferred payment future value* loan authorized by this section and  
16 loans otherwise authorized by this chapter. However, the latter  
17 loans shall not be secured only by the increase in future value but,  
18 instead, shall be payable upon sale or transfer after satisfaction of  
19 other approved liens on the property.

20 SEC. 4. Section 50862.6 is added to the Health and Safety  
21 Code, to read:

22 ~~50862.6. (a) For purposes of this chapter, a loan for an~~  
23 ~~individual household may include a future value payment loan due~~  
24 ~~on sale or transfer, except as provided herein, or when the property~~

25 *50862.6. (a) For purposes of this chapter, funds available*  
26 *pursuant to contracts entered into by the department and a grantee*  
27 *on or before July 1, 2009 may be used, with the approval of and*  
28 *subject to conditions established by the department, to provide an*  
29 *individual household with a deferred payment future value loan*  
30 *due on sale or transfer, or when the property ceases to be*  
31 *owner-occupied. The outstanding balance of the loan shall be*  
32 *payable only from the increase in the home's value, calculated as*  
33 *the difference between the following:*

34 (1) The appraised value at the time that the BEGIN loan is made  
35 to the buyer.

36 (2) The appraised value at the time repayment is due.

37 (b) ~~Both~~ All of the following shall apply to the ~~amount of the~~  
38 ~~future value payment loan~~ *deferred payment future value loan*  
39 specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the BEGIN loan is made to the buyer.

(2) The amount of each future value loan shall not exceed the difference between the total development costs *cost of the home* as approved by the department and the appraised value of the home at the time of the original sale.

(3) *If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.*

(4) *The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.*

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both ~~future value payment~~ *deferred payment future value* loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 5. Section 50896.4 is added to the Health and Safety Code, to read:

~~50896.4. (a) For purposes of this chapter, a loan for an individual household may include a future value payment loan due on sale or transfer, except as provided herein, or when the property~~

*50896.4. (a) For purposes of this chapter, funds available pursuant to contracts entered into by the department and a grantee on or before July 1, 2009 may be used, with the approval of and subject to conditions established by the department, to provide an individual household with a deferred payment future value loan due on sale or transfer, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's value, calculated as the difference between the following:*

(1) The appraised value at the time that the HOME loan is made to the buyer.

(2) The appraised value at the time repayment is due.

(b) ~~Both~~ All of the following shall apply to the ~~amount of the future value payment loan~~ *deferred payment future value loan* specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the HOME loan is made to the buyer.

(2) The amount of ~~each future value payment loan~~ shall not exceed the difference between the total development ~~costs~~ *cost of the home* as approved by the department and the appraised value at the time of the original sale.

(3) *If the home buyer is credited with sweat equity towards the purchase price of the home, the amount of sweat equity shall not exceed 10 percent of the purchase price of the home.*

(4) *The interest rate on the loan shall be equal to the interest rate of the standard loan otherwise made pursuant to this chapter.*

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department may approve both the ~~future value payment~~ *deferred payment future value* loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in future value but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 6. ~~(a) The Department of Housing and Community Development shall implement the special grant and loan securitization programs authorized by Sections 2, 3, 4, and 5 of this act through guidelines that shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code, following at least one consultation with the program sponsors who will receive, and represent the homeowners benefiting from, the special grants and loans authorized by this act. In developing these guidelines with the grantees and housing sponsors. In developing these guidelines and related transactional documents and implementing the programs in Sections 2, 3, 4, and 5, the department also may utilize other forms of securitization that achieve the housing goals and objectives of Section 1 of this act. The department shall programs in Sections 2, 3, 4, and 5 of this act, the department may require sufficient concessions and~~

1   writedowns by the developer or local government in order to make  
2   the project feasible.

3   ~~(b) The special grant and loan securitization programs~~  
4   ~~established by this act may apply to any existing contract for funds~~  
5   ~~under the Joe Serna, Jr. Farmworker Housing Grant Program~~  
6   ~~(Chapter 3.2 (commencing with Section 50517.5) of Part 2 of~~  
7   ~~Division 31 of the Health and Safety Code), CalHome Program~~  
8   ~~(Chapter 6 (commencing with Section 50650) of Part 2 of Division~~  
9   ~~31 of the Health and Safety Code), Building Equity and Growth~~  
10   ~~in Neighborhoods (BEGIN) Program (Chapter 14.5 (commencing~~  
11   ~~with Section 50860) of Part 2 of Division 31 of the Health and~~  
12   ~~Safety Code), or HOME program (Chapter 16 (commencing with~~  
13   ~~Section 50896) of Part 2 of Division 31 of the Health and Safety~~  
14   ~~Code) and may authorize homeowner loans or grants with funds~~  
15   ~~that have not yet been expended from those contracts for mortgage,~~  
16   ~~grant, or take-out financing on behalf of eligible households.~~

17   ~~(c) The department may make use of future value securitization~~  
18   ~~for loans or grants based upon an assessment of the need for its~~  
19   ~~use. The department may also limit the use of future value~~  
20   ~~securitization to loans in housing developments in which it has~~  
21   ~~already made financial commitments and may require concessions~~  
22   ~~from developers or local governments to permit use of future value~~  
23   ~~securitization.~~

24   ~~(d) The department may secure a portion of a grant or loan using~~  
25   ~~future value securitization and another portion directly by current~~  
26   ~~value, depending on the actual amount to which cost exceeds~~  
27   ~~current value. The department may recognize sweat equity, in the~~  
28   ~~case of a mutual self-help development, or the cash downpayment,~~  
29   ~~as senior to the amount secured by future valuation to the extent~~  
30   ~~required by first mortgage lenders.~~

31   ~~(e) The department shall at all times have full discretion~~  
32   ~~regarding the use of future value securitization and to establish~~  
33   ~~guidelines regarding its use.~~

34   ~~(f) The authority for the special grant and loan securitization~~  
35   ~~pilot programs authorized by this act shall expire on January 1,~~  
36   ~~2014, unless a later enacted statute, that is enacted before January~~  
37   ~~1, 2014, deletes or extends that date.~~